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[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]

DECISION

MPA/145512

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 27, 2012, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on January 10, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the Division of Health Care Access and Accountability (DHCAA) correctly denied Petitioner's request for authorization for molded, removable foot inserts.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street  
Madison, Wisconsin 53703

By: OIG by letter

Division of Health Care Access and Accountability  
1 West Wilson Street, Room 272  
P.O. Box 309  
Madison, WI 53707-0309

**ADMINISTRATIVE LAW JUDGE:**

Mayumi M. Ishii  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.

2. On October 16, 2012, Morfey's Limbs and Braces (hereinafter referred to as Morfey's), submitted a prior authorization request for one pair of molded, removable shoe inserts at a cost of \$190.00. Morfey's did so on behalf of Petitioner. (Exhibit 3, pgs. 5-10)
3. On November 16, 2012, DHCAA sent Petitioner and Morfey's notices indicating that the request for authorization was denied. (Exhibit 3, pgs. 33-38)
4. Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on November 27, 2012. (Exhibit 1)
5. Petitioner has not had any recent foot surgery. Her last corrective foot surgery took place approximately one year ago and was successful in alleviating the targeted problem. (Petitioner's testimony)
6. Petitioner has some malformation in her feet, specifically flat feet and hammer toes. (Petitioner's testimony; Exhibit 3, pgs. 5-10)

### **DISCUSSION**

It is petitioner's initial burden to establish that the prior authorization request meets the regulatory requirements at the application level, *Gonwa v. Department of Health and Family Services*, 2003 WI App 152, 668 N.W.2d 122 (Ct.App. 2003). Petitioner has not met that burden.

With regard to foot orthoses, like the molded shoe inserts requested by Petitioner, the Administrative Code has specific approval criteria. Wis. Admin. Code § DHS 107.24(4)(f) states that orthotic shoes and foot orthoses are allowed only for "post-surgery conditions, gross deformities, or when attached to a brace or bar..."

Based upon Petitioner's testimony and the documentation provided by her medical professionals, it does not appear that the requested shoe inserts are needed to address a post-surgery condition.

While Petitioner has flat feet and hammer toes, there is no medical documentation showing that her flat feet and hammer toes are considered a "gross deformity".

Given that the requested shoe inserts are removable, they are clearly not attached to a brace or bar.

Based upon the foregoing, it is found that the requested shoe inserts do not meet the requirements for approval under Wis. Admin. Code § DHS 107.24(4)(f).

Further, Wis. Admin. Code § DHS 107.24(5)(a) specifically states that foot orthoses, like the inserts requested by Petitioner, are not covered by Medicaid when they are used to treat flattened arches (flat feet) regardless of the cause of the flat feet.

Thus, while Petitioner might be experiencing considerable pain, regrettably, the request for molded shoe inserts from Morfey's must be denied at this time.

It should be noted that Petitioner indicated that she contacted Hanger Orthotics and Prosthetics about a pair of extra depth diabetic shoes and three pairs of diabetic custom molded inserts. (See Exhibit 6) If Petitioner would like Medicaid to cover these items, Hanger Orthotics and Prosthetics must submit an authorization request WITH medical documentation to show that the requested shoes and inserts meet approval criteria. Petitioner is strongly encouraged to share this decision with her doctor and with Hanger Orthotics and Prosthetics.

**CONCLUSIONS OF LAW**

The DHCAA correctly denied Petitioner's request for removable, molded shoe inserts.

**THEREFORE, it is**

**ORDERED**

That the petition be dismissed.

**REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

**APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

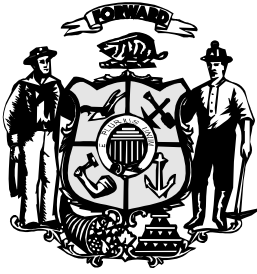
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 14th day of January, 2013.

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\sMayumi M. Ishii  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on January 14, 2013.

Division of Health Care Access And Accountability